

AD-A208 543 DOCUMENTATION PAGE

Form Approved
OMB No. 0704-0188

UNCLASSIFIED			1b. RESTRICTIVE MARKINGS NONE	
2a. SECURITY CLASSIFICATION AUTHORITY			3. DISTRIBUTION/AVAILABILITY OF REPORT APPROVED FOR PUBLIC RELEASE; DISTRIBUTION UNLIMITED.	
2b. DECLASSIFICATION/DOWNGRADING SCHEDULE				
4. PERFORMING ORGANIZATION REPORT NUMBER(S)			5. MONITORING ORGANIZATION REPORT NUMBER(S) AFIT/CI/CIA-88-213	
6a. NAME OF PERFORMING ORGANIZATION AFIT STUDENT AT Sacramento California State Univ		6b. OFFICE SYMBOL (If applicable)	7a. NAME OF MONITORING ORGANIZATION AFIT/CIA	
6c. ADDRESS (City, State, and ZIP Code)			7b. ADDRESS (City, State, and ZIP Code) Wright-Patterson AFB OH 45433-6583	
8a. NAME OF FUNDING/SPONSORING ORGANIZATION		8b. OFFICE SYMBOL (If applicable)	9. PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER	
6c. ADDRESS (City, State, and ZIP Code)			10. SOURCE OF FUNDING NUMBERS	
			PROGRAM ELEMENT NO.	PROJECT NO.
			TASK NO.	WORK UNIT ACCESSION NO.
11. TITLE (Include Security Classification) (UNCLASSIFIED) Domestic Violence: Battered Women Who Kill				
12. PERSONAL AUTHOR(S) Mickey D. Cockerill				
13a. TYPE OF REPORT THESIS/DOCUMENTATION		13b. TIME COVERED FROM _____ TO _____	14. DATE OF REPORT (Year, Month, Day) 1988	
			15. PAGE COUNT 63	
16. SUPPLEMENTARY NOTATION APPROVED FOR PUBLIC RELEASE IAW AFR 190-1 ERNEST A. HAYGOOD, 1st Lt, USAF Executive Officer, Civilian Institution Programs				
17. COSATI CODES			18. SUBJECT TERMS (Continue on reverse if necessary and identify by block number)	
FIELD	GROUP	SUB-GROUP		
19. ABSTRACT (Continue on reverse if necessary and identify by block number)				
<div style="position: relative; width: 100%; height: 100px;"><div style="position: absolute; top: 0; right: 0; font-size: 2em; font-weight: bold;">DTIC ELECTE JUN 02 1989</div><div style="position: absolute; left: 0; top: 50%; transform: translateY(-50%); font-size: 4em; font-weight: bold;">S H D</div></div> <div style="font-size: 2em; font-weight: bold; margin-top: 10px;">89 6 02 007</div>				
20. DISTRIBUTION/AVAILABILITY OF ABSTRACT <input checked="" type="checkbox"/> UNCLASSIFIED/UNLIMITED <input type="checkbox"/> SAME AS RPT <input type="checkbox"/> DTIC USERS			21. ABSTRACT SECURITY CLASSIFICATION UNCLASSIFIED	
22a. NAME OF RESPONSIBLE INDIVIDUAL ERNEST A. HAYGOOD, 1st Lt, USAF			22b. TELEPHONE (Include Area Code) (513) 255-2259	
			22c. OFFICE SYMBOL AFIT/CI	

DOMESTIC VIOLENCE: BATTERED WOMEN WHO KILL

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THESIS

Submitted in partial satisfaction of
the requirements for the degree of

MASTER OF SCIENCE

IN

CRIMINAL JUSTICE

AT

CALIFORNIA STATE UNIVERSITY, SACRAMENTO

SUMMER
1988

DOMESTIC VIOLENCE: BATTERED WOMEN WHO KILL

A Thesis

by

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Abstract
Of
DOMESTIC VIOLENCE: BATTERED WOMEN WHO KILL
by
Mickey D. Cockerill

Statement of Problem:

The high prevalence of domestic violence within American society indicates a problem of serious dimensions.

Spouse abuse has become the "norm" rather than the "exception" due to antiquated concepts of roles in marriage and in many cases, little regard for women's rights.

Despite legal precedent and protective statutes against assault, domestic abuse cases are seldom prosecuted, unless someone is seriously injured or killed. Many battered women are discouraged against pressing charges against their abusers and continue to participate in a violent marital relationship. Others decide the only solution to ending the violence is murdering their abusive partner.

The purpose of this study is to address the issues and controversies associated with battered women, with particular emphasis on battered women who kill their spouses after prolonged and repetitive periods of physical, emotional or psychological abuse.

Sources of Data:

Informational sources for this research are the available professional journals and periodicals, magazine and newspaper articles, and books written by experts on this subject.

Conclusions Reached:

The study focuses on the perceptions commonly held by various members of the behavioral and social science professions, criminal justice practitioners and the media, of the battered woman who kills, and how these perceptions impact her treatment within the criminal justice system.

It is hoped that this study will act as a catalyst for changing these perceptions, and increase both the availability of support services for battered women, as well as non-criminal justice alternatives to society's domestic violence problems in the future.

Committee Chair's Signature of Approval

Thomas R. Phelps

ACKNOWLEDGEMENTS

The successful completion of this thesis would not have been made possible without the assistance and support of several people.

First, I would like to express my gratitude to the United States Air Force, who sponsored my graduate program at California State University, Sacramento, and made it possible for me to obtain my master's degree in criminal justice.

Second, many thanks to Dr. Thomas Phelps, my thesis chair and graduate coordinator, who provided outstanding advice, guidance and moral support throughout my entire graduate program and especially during the completion of this thesis. I would also like to thank Dr. James Poland, my second reader, for his assistance in the final reading of my thesis.

Third, special thanks to Captains Ulysses Middleton, Ruth Strong, and Tom Taylor, and my other classmates, for providing unselfish assistance and moral support during our joint graduate school venture.

Finally, a special thank you to my professors in the criminal justice department, my family, my friend Sandra,

and all the rest of the "California Crew," who gave me their support and the constant encouragement needed to successfully complete my graduate program.

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CHAPTER I

Introduction and Historical Background

Spouse abuse has existed since the beginning of time and up until recently, was a reservoir of victimization that was permitted to exist and thrive within our culture.¹ Domestic violence exists on all levels of our society and is not modified by income, educational level or social class, despite popular beliefs to the contrary.

Throughout history, women have been portrayed as little more than the "possession" of the man who marries them. Assault of a woman by her spouse has long been considered a "family" rather than a "legal" matter. Courts are reluctant to "usurp" a man's authority over members of his household or invade the privacy of his domain.

Physical domination of wives was first evident in the ancient laws and customs of Rome and the first known "law of marriage" was formalized in 753 B.C. by Romulus and is partially quoted as such: ... (required married woman) "as having no other refuge, to conform themselves entirely to the temper of their husbands and the husbands to rule their wives as necessary and inseparable possessions."

According to early English law,² even if a husband killed his wife, it was not considered a major offense. Yet, if a wife killed her "lord and master," it was portrayed as an act comparable to treason and punishable by death. The influence of English law on the laws in the U.S. was evident until 1871, when the laws changed to make it illegal for a man to physically assault his wife.

Despite the history of spouse abuse, no American jurisdiction legally permits a husband to strike his wife. Physical assault against a spouse falls under various assault statutes, depending on the jurisdiction, and is punishable by imprisonment and other sanctions.

In the period between 1960 and 1965, researchers focused on family violence, but attributed any reports of spouse abuse to an isolated group of men and women who possessed personality disorders.³ It was not until 1970, that the field of victimology focused on spouse assault and recognized the high percentage of women who were routinely assaulted.

A 1980 study by Straus, Gelles and Steinmetz⁴ indicates that out of 2,000 married couples surveyed, 28 percent reported at least one instance of physical abuse within their relationship that year and 16 percent reported at least one instance of physical abuse within their relationship the year prior to the survey. A Harris poll, conducted in 1975, indicated that 21 percent of married

female respondents had been attacked at least once by a male partner.⁵

In 1982 a National Crime survey indicated that 91 percent of violent crime between spouses resulted in the woman being victimized, while only 5 percent resulted in victimization of the male. The remaining 4 percent may be attributed to unreported victimization of either partner.⁶

Statement of the Problem

The high prevalence of domestic violence within American society indicates a problem of serious dimensions. Spouse abuse has become the "norm" rather than the "exception" due to outdated concepts of roles in marriage and in many cases, little regard for women's rights. The hesitancy of a law enforcement officer to "interfere" in a domestic disturbance or arrest an abuser perpetuates the violence.

Although there are laws to protect a woman against her abuser, she is often discouraged against pressing charges against him and encouraged to settle the matter outside of the legal system. Domestic abuse cases are seldom prosecuted unless someone is seriously injured or killed.

The "unofficial" practice known as "the forty stitch rule," prevalent in many poor, Brooklyn, New York neighborhoods perpetuates such outdated attitudes towards prosecution in domestic violence cases. It states that no

felonious assault charges will be filled against an assailant unless the combined injuries of the victim exceed forty stitches.⁷

Education of the public and awareness training for law enforcement, medical and social services personnel may assist in changing some attitudes towards domestic violence and assist in the recognition of the "signals" of an abusive and violent marital relationship before it ends in murder.

Policy implemented on the law enforcement and court level which provides battered women with support services and legal protection from assaults may prevent abused women from feeling that murder is the only solution to their problems.

Purpose of the Study

The purpose of this study is to address the issues and controversies associated with battered women. My intention is to illustrate that the perceptions on battered women who kill commonly held by various members of the behavioral and social science professions, criminal justice practitioners and the media impacts on the treatment of the "real victim," i.e. the battered wife, within the criminal justice system and impedes successful resolution of society's domestic violence problems in the future.

Focus and Scope of the Study

The focus of this study will be the plight of married battered women who experience prolonged and repetitive periods of physical, emotional and psychological abuse at the hands of their spouse and eventually kill their abuser. I will focus on the personality traits of battered women who kill and those traits of the men they become involved with, as well as the type of marital relationship and history of abuse, that sets the stage for murder.

This study will identify and analyze the perceptions of this problem as expressed in the writings of behavioral and social scientists, criminal justice practitioners, other clinicians and the mass media.

Such perceptions of women who kill because of long term victimization influences the availability of non-criminal justice alternatives to problem resolution.

Procedure and Methodology

This study consists of an extensive review and analysis of professional journals, books, periodicals, key studies and case histories addressing the subject of battered women who kill. Contemporary literature used in this study will provide the reader with a well formulated presentation of the issues and controversies that surround this subject, as

well as the viewpoints of the current experts and observers in this area.

Definition of Terms

1. Abusive Matrix: "Certain personal characteristics usually present which increases the risk of violence. These include: a past history of violence or exposure to violence in childhood, feelings of low self esteem, powerlessness and dependence, social isolation and lack of social supports, a history of drug or alcohol abuse, the presence of an illness that affects thinking, the presence of a provocative victim."⁸
2. Battered Woman Syndrome: "Patterns of violence typically experienced by battered women and the psychological impact this violence has on women."⁹
3. Cycle Theory of Violence: "Three distinct phases of the battering cycle which explains how battered women are victimized, fall into learned helplessness behavior and why they do not attempt to escape their circumstances. These phases are best described as the tension building phase; the acute battering incident;

and the calm, loving respite."¹⁰

4. Learned Helplessness: "A theory which postulates that a battered woman believes that anything she does will not alter the outcome of her situation. She responds to repeated beatings in a passive, helpless manner, and refuses to leave her batterer, although she has the capability to do so."¹¹
5. Spouse Abuse: "Any behavior demonstrated by either marital partner which results in the mistreatment, injury or victimization of the other through physical, emotional or psychological means."¹²
6. Victimology: "A field within criminology which is devoted entirely to the study of the victims of the crime."¹³

Footnotes

¹ Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 2-3.

² William Blackstone, Commentaries on the Laws of England, bk. 4 (Philadelphia: R. Welsh and Co., 1897), 1602.

³ Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 3.

⁴ Murray A. Straus et al., Behind Closed Doors: Violence in the American Family (New York: Doubleday, 1980), 121.

⁵ Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 4.

⁶ Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 7.

⁷ Andrew Karmen, Crime Victims: An Introduction to Victimology (Monterey, California: Brooks, Cole, 1984), 165.

⁸ Michael Weissberg, Dangerous Situations: Maladaptive Responses To Stress (New York: W.W. Norton and Company, 1983), 175-177.

⁹ Lenore E. Walker, The Battered Woman (New York: Harper and Row, 1979), 16.

¹⁰ Lenore E. Walker, The Battered Woman (New York: Harper and Row, 1979), 49.

¹¹ Lenore E. Walker, The Battered Woman (New York: Harper and Row, 1979), 41.

¹² What Everyone Should Know About Family Violence (Massachusetts: Channing L. Bete Co., 1986), 6.

¹³ Morton Bard and Dawn Sangrey, The Crime Victim's Book (New York: Basic Books, Inc., 1979), 96.

CHAPTER II

Literature Review and Controversial Issues

Victimology: Who Is The Real Victim in Spouse Murder?

Several controversial issues emerged during the course of my review and analysis of literature that addressed the subject of battered women who murder their spouses.

One dominant theme present throughout was the question of who was the real "victim" in these cases, the murdered spouse, or the wife who survived years of physical, emotional and psychological abuse and ended this torture in one final, desperate act.

How is it that some women can survive years in an abusive relationship without killing their husband, while others will continue in the same type of violent, marital relationship and end it in murder?

Angela Browne,¹ social psychologist and leading authority on women who murder their spouses, noted that there is very little difference between these two groups of women with the exception of the types of men they are involved with during the course of their marriage. She postulates that the men who died exceeded the limits of the

violence their wives had come to accept and escalated their violence with little or no remorse.

Michael Weissberg,² a psychiatrist whose work deals with maladaptive responses to stress, perceives the increased risk of violence in cases involving spouse abuse as the result of certain characteristics which are present in both individuals involved in an abusive marital relationship.

He maintains that it is difficult to identify individuals who will always be violent; however, their personal histories and previous behavior provide some similar characteristics when assessing their ongoing violent relationships.

These predominant characteristics, identified in his "abusive matrix" are usually present in one or both individuals: a past history of violence or exposure to violence in childhood; feelings of low self-esteem; powerlessness and dependence; social isolation and lack of a support system; a history of substance abuse (predominantly alcohol); the presence of an illness which affects the thinking process (i.e. psychosis or brain tumor); and the availability of a victim. The presence of these traits, and a volatile combination of additional factors within a violent relationship, alters the balance of power and results in the abuser becoming the victim.

Marshall Houts,³ former deputy coroner and chief investigator in over six hundred murder cases, argues that

the personality of the "partner in crime" (i.e. the murdered husband), his conduct and attitude towards his wife, as well as the type of relationship they shared, are crucial factors in the spouse becoming a victim of murder. Houts contends that the "victim" (i.e. husband), by subconscious or intentional action, actually "asks" for death. He contends that spouse murder occurs as the result of frequent, intense battering which progresses over a period of time. The final act of spouse murder results when the beatings become more frequent and intense, the injuries more severe and when the husband shows little or no remorse for his actions.

With these factors taken into consideration, one comes to understand how an abusive relationship could terminate in murder, but what "maintains" this type of relationship against all odds during the period prior to murder of the spouse?

Lenore Walker,⁴ psychologist and "expert witness" in cases where women have murdered their batterers, focuses on two conditions which "perpetuate" abusive relationships: the "learned helplessness" syndrome and the "three stage battering cycle."

In the former, a battered woman is convinced that nothing she does can help her out of her abusive situation, so she seldom leaves it. It is as if she accepts the "status quo" of the relationship and the violence associated with it, and feels she has no control over what is happening

to her.⁵

With her acceptance of a certain predictable pattern of violence, she becomes caught up in a "battering cycle" which reinforces her presence within the relationship. The three "stages" of the cycle demonstrate why battered women stay in an abusive relationship and why the cycle is repeated over and over until a "critical incident" marks the husband for death.

The cycle can best be explained as the first, slow, tense escalation of violence, followed by the battering incident, and followed by the period of reconciliation where the batterer is contrite for his actions and showers his wife with affection, gifts and promises never to abuse her again. Most women are seduced into remaining with the abuser at the final stage.⁶

Psychological Profile of the Male Batterer

The husband who abuses his wife appears to come under two distinct categories. The first type may appear "normal," be a good family provider, and never be violent with anyone but her. The second type has a previous history of problems with his aggression in both his family and social relationships, and in most cases has a record of trouble with the law.⁷

A common denominator both types of these abusive men

share is a feeling of inadequacy in some area of their lives (i.e., family life, sex life, career), and low self esteem. Some experience depression, guilt and shame over their behavior, yet seem unable to control the "spiral of violence."⁸

Many are extremely jealous and wish to control all aspects of their wife's lives, often creating conflict over minor issues or where none exist. They exhibit a strong desire to isolate and overpower their mate through physical, psychological or emotional intimidation.

Most abusive males seem to have problems communicating their needs to others and resort to violence when frustrated. Their emotional pattern demonstrates a lack of ability to discharge emotion and hostility in a constructive fashion.

Alcohol or drug abuse is usually present in the makeup of these men and many use this as an excuse for their violence, when in reality it is simply a crutch.

Some men demonstrate a distinct "disassociative reaction" during a battering incident.⁹ This can best be described as a loss of inhibition and self restraint (usually alcohol, drug or stress induced) during which the husband acts violently with little or no recall of the abusive behavior afterwards. It is as if he "stepped outside himself" and watched someone else commit the violence.

Psychological Profile of the Battered Female Murderer

A psychological profile derived from the battered female population indicates two distinct types of women who will murder the men who abuse them.

The "covertly hostile" personality type, also known as the "supercultural murderer," is usually not a violent person, but she murders violently. She learns to express hostility only when it is safe. She is over-inhibited and has no outlet for her aggression until the explosive situation culminating into the one murderous act. These women share the same psychological profile as women who kill their own children. Their mates are often hostile and abusive, but the women are afraid to fight back. They are usually mothers, poor homemakers, and people who experienced superficial interpersonal relationships with others. Often they feel wronged and deluged by excessive demands from family members. They deny the murder at the time of its commission, and show little remorse or sense of loss thereafter.¹⁰

The "masochistic personality," also known as the overcontrolled-hostility type, is emotionally stable, with a good reputation, often religious, and well controlled, reliable and productively employed outside the home. She is married to an abusive, unstable mate. After years of abuse she commits a violent murder, often while being beaten, or

protecting a child from being assaulted or when fearful of having a child or herself killed. A "disassociative reaction"¹¹ occurs as the result of prolonged mistreatment and intensifies with the frequency and severity of abuse. After killing her partner violently, she calls for help and exhibits some degree of shock. She expresses sorrow, loss, remorse and depression. This personality profile is seen in the majority of spouse murders.¹²

Critical Incident, Modus Operandi and
Other Significant Factors

A "key" or "critical" incident emerges in the history of those battering relationships which end in the death of a male partner. This can be as important as the personality traits of the abuser and his victim or the type of violent relationship they shared over time.

Each of the involved women decided that their partner was totally out of control and unremorseful for his actions. When the violence escalated in both frequency and severity of injuries, most felt that they or a child would soon be killed. Additional verbal or implied threats of being murdered or having a child or beloved pet murdered accelerated the situation.¹³

When this critical point had been reached in the relationship, each woman felt trapped and made a final

decision that all alternatives had failed to produce meaningful results. Each chose murder as the only solution to ending the violence.

In most cases, the murder was unpremeditated and occurred while the husband was incapacitated by sleep or alcohol. Other cases demonstrate the wife retaliating at the moment of the attack, or shortly afterwards, often with the same weapon with which she had been previously threatened. Guns were used in 81 percent of the murders, knives 7 percent, automobiles 7 percent, and the remaining 5 percent is attributed to other methods.¹⁴

Additional Psychological Factors That Effect Homicide:

Disassociative Reaction

According to Schmidt's Attorney's Dictionary of Medicine, the definition of "disassociative reaction," used in defense of battered women, is the following: ... "an emotional state in which the person's behavior and general functioning becomes disassociated or separate from his/her conscious awareness so that he/she may carry out various acts, including highly complex and organized behavior, without any conscious awareness or later recollection of doing so. During the performance of such acts the patient may appear to be entirely aware of what he/she is doing, but afterward has no recollection whatsoever for his/her

behavior."¹⁵

This concept of "disassociative reaction" has been used in the skillful legal and psychiatric defense of battered women who murdered their spouses and will be discussed under the perceptions shared by both the criminal justice system and the media during the trials of women accused of murdering their husbands.

Case Histories: Patricia Brooks and Kay Sandiford

On May 5, 1964, Patricia Brooks' husband of sixteen years came home and threw a glass of beer into her face in front of the children. He was drunk, belligerent and argumentative and told her, "he ought to kill her," then dragged her into the bedroom and slapped her in the face. She arose from their bed, walked approximately six feet, loaded a gun, and fatally shot him in the head.

Despite a history of severe and systematic beatings over a prolonged period of time, hospitalization for her injuries, and sexual abuse, Mrs. Brooks never resisted, or showed anger and never resorted to legal protection. She claimed she had never contemplated violence towards her husband, but feared "cracking up" and harming her four children.

The criminal justice system initially ruled out both self defense and temporary insanity as a plea. Medical

tests uncovered no organic brain disease or abnormal brain wave pattern. She was simply an accused murderess, and was treated as such.

Finally, during the course of a psychiatric interview, Patricia Brooks admitted, "she stood outside herself and watched herself kill her husband." This reaction, known as a "disassociative reaction" became the basis for her successful legal and psychiatric defense and won her acquittal.¹⁶

The concept of disassociative reaction is discussed in trial accounts of women who have used this form of psychiatric defense. Noteworthy was its success in the murder trial of Kay Sandiford.¹⁷ Lenore Walker served as an "expert witness" and provided key testimony on both the disassociative reaction and the battered women's syndrome on behalf of Mrs. Sandiford.

Kay Sandiford was an exception to the commonly held stereotype of the poor, uneducated wife who murders her husband. Instead, she was from an upper class background and was a well respected Texas socialite. She murdered her famous surgeon husband after years of battering and threats of murder.

Initially, Mrs. Sandiford was sentenced for a twenty year sentence for voluntary manslaughter, but upon review and Dr. Walker's testimony, it was determined that she experienced the disassociative reaction during the actual

murder. She was subsequently fined ten thousand dollars and given ten years probation.

Sociological Perspectives: The Family

It is noteworthy that many battered women maintain a facade of the idealized family, and struggle to maintain family life despite repeated beatings.

Society supports the concept of the nuclear family and continuously reinforces it through economic, educational, social and religious institutions.¹⁸ Family ties are expected to be maintained in spite of adversity and until recently, a woman had no alternatives but to remain with her batterer.

Richard Gelles states, in his highly acclaimed work, The Violent Home, that "we are still convinced that in most cases a marriage license also functions as a hitting license."¹⁹ He also found that many incidents of violence between married partners were considered by them to be normal, routine and generally acceptable.

Wolfgang and Ferracuti reinforce this belief in their book, Sub-Culture of Violence by stating that, "The normative system designates that in some types of social interaction a violent and physically aggressive response is either expected or required of all members sharing in that system of values."²⁰

It appears that spouse abuse not only affects the principals involved, but particularly influences the children who are observers of such violent relationships.

Many of the children involved in violent family situations have definite sex role expectations placed upon them throughout their childhood and may act accordingly in their adult lives. Young boys may assume that men should be aggressive and violent, while girls may be encouraged to be passive and defenseless. These stereotypes are often reinforced through parental attitudes and behavior, and early exposure of the child to violence within the family unit.

A social learning theory, known as the "intergenerational transmission of violence" explains how patterns of violence can be passed on from one generation to another.²¹ It postulates that a child who observes violence in his environment may imitate the behavior he is exposed to and feel violence is an appropriate way to express his emotions and deal with life's crises.

Straus, Gelles, and Steinmetz observed in their 1980 published study of couples that, "Each generation learns to be violent by being a participant in a violent family - 'Violence begets violence'."²²

Murder indeed begins at home. In 1956, a study conducted by Marvin Wolfgang on murder between spouses indicated that between 1948 and 1952, there were 621

murderers and 588 murder victims in the Philadelphia area alone. One hundred of these victims were spouses of their killers, and forty-seven were husbands killed by their wives. Of the entire female murderer population, 45 percent murdered their husbands. Eighty-five percent of these murders occurred in the home: 23 percent in the bedroom, although most died in the kitchen, usually the victim of a knife or gunshot wound.²³

Wolfgang also found that the slayings were more often than not precipitated by the husband, through provocation, assault or serious threats to the well being of the women.²⁴

Socioeconomic Profile of the Battered Female Murderer

Who are the women who kill their husbands? Predominantly, they average 36 years of age, and have an average of two children. Sixty-six percent are Caucasian, 22 percent black and 12 percent are Spanish, Chicano or other ethnic origin. Forty-six percent are working class, 25 percent middle class, and 25 to 29 percent are lower class. Seventy-one percent have completed high school, while 21 percent completed college. Forty-eight percent presented a stable work record during their marriage, while 15 percent worked sporadically, with the remainder relying exclusively on their husband for total financial support. The length of their relationships averaged 8.7 years prior

to the murder and many were in a relationship with a man from a lower social class than themselves.²⁵

Ward, Jackson and Ward conducted a study in 1969 which noted that women who murder their husbands had the highest age when first arrested, least extensive or a non-existent prior criminal record and the largest proportion of alcoholics and highest incidences of emotional disturbance or diagnosed psychosis compared to other female offenders in California.²⁶

Media Perspectives

Press coverage of cases where battered women murdered their husbands have not adequately informed the public about the plight of the battered woman. This is especially true in the initial media accounts describing the crime. Instead, sensational summaries of these cases have stressed sanctions of how the murderous woman had "got off scot free." This impression has contributed to the widely held and erroneous belief that more and more women are literally walking away from murder.

After Francine Hughes was acquitted, columnist Richard Cohen of the Washington Post headlined, "VIGILANTE JUSTICE BACK IN WOMEN'S MOVEMENT."²⁷ Another article in Time, the weekly news periodical, noted that "an array of women have managed to walk away unpunished after killing their husbands

or even former husbands."²⁸ The byline on the news account was emotionally entitled, "A Killing Excuse." Included in the listing of women cited in this article was Francine Hughes and another woman named Gloria Maldonado, who shot her husband while he was beating her eight-year-old son. Mrs. Maldonado's case was clearly "self defense" and was never prosecuted by the state attorney, yet she was perceived by the media as a murderess.²⁹

In January 1978, Newsweek, an opinion-forming mass circulation weekly, concluded that the cases in their article entitled, "Wives Who Batter Back" established a trend that advocated legitimate violent retaliation against those who use violence and concluded that such a response by the victim is a form of frontier justice.³⁰

New York Times reporter Anna Quindlen stated that "the publicity the acquittals have received presents a danger because of the tendency some women may have to see that as a solution." She reiterated that the acquittals "confirmed some men's worst notions about the women's movement."³¹

By 1979, the controversy had lessened, but anxiety remained high. Women who killed their husbands were still newsworthy. A story in the March 1979 issue of New West was entitled "Chano and Blanche: A Ballad of Love, Death and Law in Tulare County," was not a ballad. Rather, it retold the story of a battered and sexually abused Idalia Mejia, who had shot and killed her husband, Ralph, in 1977, and who

had been cleared of murder charges after three separate trials.³²

In April of the same year, the homemaker periodical, Family Circle, published the story of a battered Michigan woman named Patricia Gross who shot her husband during an attack in 1978. She was later acquitted. The article sympathized with women driven to defend themselves, but reinforced the media generated concept that women were "getting away with murder" with increased frequency.³³

National newspapers such as the Washington Post or New York Times reported cases of women acquitted of spouse murder who had used abuse as a justification for murdering their husbands. Evelyn Ware and Sharon McNearney were two such women who were mentioned frequently by the mass media. Both were acquitted in 1977 while experiencing unrelenting publicity surrounding their trials.

Ironically, several other murder trials in which women murdered their boyfriend or husband occurred during the same time period. These women were not considered "newsworthy," since each had received prison sentences. A typical example of this media treatment was the news coverage of the Marlene Roan Eagle trial. She was acquitted in 1976 on grounds of self defense while protecting her unborn child at the time that she murdered her battering husband.³⁴

During the same timeframe, the first degree murder trial of Barbara Jean Gilbert in Maryland, went virtually

unnoticed by the press. Ms. Gilbert had received a life sentence plus five years for using a concealed weapon during the crime. She was retried in 1978 and received an eight year sentence for involuntary manslaughter in the murder of her husband.³⁵

Selective journalism had been found to influence public opinion towards the battered woman who kills. This form of journalism exists when a writer relates to the reader only "select" pieces of information, with emphasis on information of a sensational or emotional content. In the process, often significant and highly important facts are either eliminated or portrayed in a fashion which only tells a part of the true story.

A case in question is that of Jennifer Patri. She killed her husband with a 12 gauge shotgun several weeks after Francine Hughes had set fire to her husband. Time discussed her upcoming trial in an article focusing on women who were labeled as those who had "managed to walk away unpunished after killing their husbands."³⁶ The story continued by discussing her life and providing a description of a violent environment with an abusive husband. It failed to mention, however, that the night her husband was shot, he had threatened her with a butcher knife and offered to close her mouth once and for all. Instead, the article noted that Robert Patri (who was living with another woman) showed up to take "his girls" on an outing and found Jennifer waiting

with a loaded shotgun. The elimination of pertinent information concerning the abuse victim created an incorrect perception of Jennifer Patri as a cool woman who shot her husband in the back after an argument. The mislabeling was extended to provide a negative public image of her advocates, too.

She received a ten year sentence, was charged with a secondary charge of arson, and then ruled "insane" and remanded to a state hospital.³⁷

Criminal Justice Perspectives

Spouse Murder: Justification or Excuse?

On March 9, 1977, Frances Hughes poured gasoline around her bed while her husband lay sleeping in it. Although she had been beaten on a regular basis, this time he destroyed all her schoolbooks and term papers, told her he would kill her if she returned to school, and then demanded she have sex with him prior to his death. She was immediately charged with first degree murder.³⁸

Murder is defined as the killing of one human being by another. It is considered to be either "justifiable" (in self defense) or "excusable" (by reason of temporary insanity). It is not unlawful under the first two conditions, but felonious and punishable as a crime if committed otherwise.³⁹ The method in which Francine Hughes

murdered her husband, despite a history of abuse, presented problems in terms of a self defense plea. The criminal justice system did not accept self defense in her case, because the concept of using deadly force against comparable deadly force was absent and self defense could not be substantiated in a situation where a wife sets fire to a sleeping husband who was unable to defend himself.

The criminal justice system has traditionally treated female murderers as a separate class from their male counterparts. This is particularly evident in the treatment of domestic homicide, where many battered women are "legally excused" for the murder of their abusive partner, rather than perceived as having "legal justification" for their actions.

In order to realize the full implications of these two types of legal defense and the perceptions they generate of battered women who kill, basic definitions are required.

According to the article, "The Theory of Excuses" by George Williams, "A defense is justificatory in criminal law" ... whenever it denies the objective wrongness of the act."⁴⁰ This definition reinforces the attitude that an act (spouse murder) should receive social approval rather than public condemnation.

On the other hand, an "excuse defense" does not deny the wrongness associated with the act (spouse murder), but is designed to generate public sympathy and leniency by the

courts. Common "excuses" used in this form of legal defense include provocation by the batterer, pre-existing mental defects or psychological conditions such as "temporary insanity" or "disassociative reaction" or a "lack of intent" by the battered woman to actually commit the murder.

The first definition implies that an abused woman has a clear right to act in her own self defense or in the defense of her children. Theoretically, this is sound, and the perception here is that the woman involved is a fully responsible and legal person. Unfortunately, this defense is seldom used in the legal defense of battered women who murder their male partners.

Instead, the battered woman who murders her mate is considered deviant and psychologically or emotionally pathological and treated as such in the legal system. Temporary insanity defenses include the categories of disassociative reaction, battered woman syndrome, and an entire range of other mental and personality disorders including pre-menstrual dysphoric disorder or PMS. The perception is decidedly of a female "out of control" and not a fully responsible, legal person.

In the case of Francine Hughes, her attorney "chose the oldest and safest defense for a woman," i.e. "temporary insanity." Unfortunately, the trial judge and the press wanted him to enter the plea of "self defense."⁴¹

Although Mrs. Hughes was acquitted, Judge Hotchkiss

stated his dissatisfaction to the press very clearly: "All of a sudden we realized that we have thousands of people (battered women) who have no recourse under the law. Self defense is a real issue, but it was never really covered in the trial."⁴²

Why does this "double standard" of justice exist? It appears that women still dwell in a different moral sphere from their male counterparts. Society's perception of the female role as nurturing and submissive is dashed when the battered woman defies conventional morality and murders her so-called male benefactor. Since she is acting in a fashion antithetical to a male defined "role," she must be "excused" for her actions by reasons of diminished mental capacity or emotional disturbance, rather than "justified" under male defined legal rules of self defense.

Two rules which stand out and demonstrate obvious discrepancies in the legal treatment of men and women under the same conditions are: "the reasonable man" standard⁴³ and the "imminent danger" rule.⁴⁴

The "reasonable man" is one who uses deadly force only to prevent death or great bodily harm. He is expected to defend himself with his fists against an aggressor with the assumption that the confrontation will not result in serious injury. If he cannot defend himself, he takes the beating and resorts to assault statutes to "equalize" the situation. Most women, however, could not defend themselves

against such a typical beating and risk serious injury.⁴⁵ Despite obvious discrepancies in physical size and strength, juries have routinely been told not to recognize an "ordinary" beating as capable of doing "great bodily harm" to a woman.

The inequality in combat produces situations where battered women often use deadly weapons to protect themselves against simple assault for fear of serious injury or even death.⁴⁶ Many abused women "equalize" the situation by attacking when their batterer is asleep or otherwise incapacitated, and the result is often murder. These circumstances clearly defy the male oriented rules of self defense and place the murderess in the category of a "psychotic" who uses unreasonable force to defend herself.

Another impediment to the use of the self defense plea by battered women is the "imminent danger" rule. This restricts the use of deadly force to situations where the individual is in immediate danger of serious injury or being killed. Unfortunately, it excludes past or future threats of serious injury or death by the batterer and is often excluded as evidence and justification for the self defense in the trials of battered women. Included in the "imminent danger" category is the length of time between the actual assault by the male and the resultant murder by the abuse female, as well as the circumstances under which the murder was committed.⁴⁷ Despite well documented cases of a history

of psychological, physical and emotional abuse, women who do not fulfill the strict male oriented "rules of engagement" often are charged with premeditated murder unrelated to self defense.

Advantages and Disadvantages of Self Defense
and Excuse Defenses

Primarily, the advantage of the excuse defense is that women often are treated more leniently through the criminal justice system. Therefore, it is a highly successful defense tactic. It appears even the more severely psychotic murderess will spend considerably less time in a mental institution than her male counterpart.⁴⁸

The "excuse" defense immediately "labels" a murderess as psychologically or emotionally unstable, and as such denies her the "right" to defend herself or her children without legal bias. It gives the impression that only a woman who is considered "abnormal" in terms of the societal definition of the female role will retaliate when attacked.

The disadvantage lies in the perpetuation of gender based moral codes and assumptions which find their way into the courts and influence both the process and outcome of the battered woman's trial. With the predominantly male oriented population within the criminal justice system, these codes and assumptions definitely impact the treatment

of the battered woman who kills and places her at a disadvantage from a legal and social perspective.

On the other hand, the "self defense" plea is justifiable in many cases of spouse murder and would give the battered woman "equality," but not necessarily an advantage in the courtroom.

Policy Issues

Throughout this literature review it became apparent that two issues would arise in the legal defense of women who murdered their husbands. One was the plea of "self defense" and the second was the plea of "temporary insanity: disassociative reaction."

Several classic articles reprinted in key edited anthologies reiterate that a woman should not have to undergo the process of a murder trial if indeed, she was protecting herself and during that process, accidentally murdered her husband.⁴⁹

The second plea focuses on the "disassociative reaction," a psychological state of mind reached by a battered woman who suffers prolonged abuse, and then murders her husband in this altered state.

Granted, one or both of these two unique situations are not always present in all cases of spouse murder, but researchers must explore and develop legal/psychiatric

guidelines and procedures which could rule out these possibilities prior to prosecuting a battered wife. This is especially important for law enforcement or investigation personnel who respond to the initial murder scene since keen observation and critical evidence are key players in the wife's defense. Additionally, a psychiatric evaluation and substantiated medical history coupled with previous police incident reports should be part of the pre-trial protocol.

Another area to be explored is early identification of battering relationships followed by mandatory intervention treatment in order to prevent future spouse murders. When a wife abuser refuses to participate in treatment or continues his abusive behavior, it is important to have policies allowing the criminal justice system to take immediate legal action against him.

Finally, the field must have stronger legislation to protect women from battering as well as federal funding to provide shelters or "safe houses" and intervention treatment for families involved in domestic violence.

Myths About Battering: Agreements and Disagreements
by Scholars and Practitioners

This thesis research has identified five commonly held beliefs about battering which have been identified in reviewing the opinions of frequently cited researchers and

practitioners in the field.

In the Straus, Gelles, and Steinmetz study of violence between partners,⁵⁰ the authors stated that the results of their study clearly gave evidence that there was a "mutuality of violence" within a battering relationship.

Browne felt this was inaccurate as the study only involved couples who were married and living together, and not those recently separated or divorced. Secondly, she challenged that information on violent acts was gained only by interviewing one member of the couple, without corroboration from the other partner or outside sources.

"Battered women are accustomed to living in violence, are fragile and passive. They are poor, have many small children, and are from a minority group. They lack job skills and are economically dependent on their husbands."⁵¹

Walker⁵² and Weissberg⁵³ disagree and state that most battered women are from middle class or higher income families. Many are large enough to defend themselves, have none or few children of various ages, and some are successful workers or career women. They are from all ethnic groups, educational levels and socioeconomic levels. Browne,⁵⁴ Pagelow,⁵⁵ Martin⁵⁶ and Sandiford⁵⁷ also support this in their writings.

"Battered women are masochistic." It was suggested by the literature prior to 1967, that a battered woman's negative personality traits, to include masochism were

responsible for her being beaten. It was implied that she "enjoyed" being beaten by her husband and remained in an assaultive relationship for this reason. Walker,⁵⁸ Browne,⁵⁹ Martin⁶⁰ and Pagelow⁶¹ disagree strongly with this premise.

"Even if (spouse) abuse exists, its magnitude is exaggerated, usually by the victim." Weissberg,⁶² Walker⁶³ and Browne⁶⁴ feel the opposite is true: abuse is usually under-, not over-, reported. They attribute this to shame, guilt or fear.

Martin blames abuse on a "sexist society" that reinforces wife battering.⁶⁵ Weissberg disagrees and states this is a "unidimensional theory to explain a multi-dimensional problem."⁶⁶

"Battered women are crazy." Walker feels that battered women often use survival behaviors that often earn them the misdiagnosis of "crazy."⁶⁷ After numerous interviews with battered women she felt that family doctors responded to overt "symptoms" (anxiety, depression, schizophrenia) shown by the women and treated them accordingly with antipsychotic drugs or other forms of psychiatric intervention such as electroshock. There was seldom any attempt to understand the battering situation at home. Dr. Walker feels most women are not mentally ill, but are using coping mechanisms to deal with the battering. Weissberg concurs that the majority of people involved in abusive relationships are not

mentally ill, but society labels them "crazy" to distance and deny the fact that violence occurs between so-called "normal people" too.⁶⁸

Conclusions and Recommendations

The high prevalence of domestic violence with our society clearly indicates a problem of prodigious dimensions. Spouse abuse has become the "norm" rather than the "exception" due to antiquated concepts of sex roles as well as inappropriate cultural mores.

Although there are laws designed to protect a woman from her abuser, she is often discouraged from pressing charges against him and encouraged to resolve the matter outside the criminal justice system. Domestic abuse cases are seldom prosecuted unless someone is seriously injured or killed.

It is important that both the abuser and his victim be provided an opportunity for mandatory intervention therapy in order to assist both individuals in acquiring alternative means for transforming a violent relationship into a more meaningful, violent-free form of interaction. Legal action should be initiated from the very first incident of assault. Destructive behavior should not be tolerated or supported by our society or representatives of the criminal justice system.

Additionally, the field must implement legislation to

protect women from assault. Social service agencies and the government must provide better protection and supportive services and survival skills to battered women everywhere. Failure to implement these recommendations is to conclude that murder is to be the only option of the abused.

This society must be willing to provide emancipation to women who find themselves locked into a private world where personal disenfranchisement accompanies the terror of recurrent violence.

Footnotes

¹ Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 64.

² Michael Weissberg, Dangerous Secrets: Maladaptive Responses to Stress (New York: W.W. Norton and Company, 1983), 175-177.

³ Marshall Houts, They Asked For Death (New York: Cowles Book Company, Inc., 1970), Chapter 7.

⁴ Lenore Walker, The Battered Woman (New York: Harper and Row, 1979), 37-60.

⁵ Ibid., 41.

⁶ Ibid., 49.

⁷ Ibid., 30-35.

⁸ Ibid., 53-55.

⁹ Marshall Houts, They Asked For Death (New York: Cowles Book Company, Inc., 1970), Chapter 7.

¹⁰ Cole, Fisher and Cole, 1968, as cited as Lester, Crime of Passion: Murder and the Murderer (Chicago: Nelson Hall, 1975), Chapter 2.

¹¹ Marshall Houts, They Asked For Death (New York: Cowles Book Company, Inc., 1975), Chapter 7.

¹² Megargee, 1966, as cited as Lester, Crime of Passion: Murder and the Murderer (Chicago: Nelson Hall, 1975), Chapter 2.

¹³ Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 20.

¹⁴ Ibid., 140.

¹⁵ Marshall Houts, They Asked For Death (New York: Cowles Book Company, Inc., 1970), Chapter 7.

- ¹⁶ Ibid., Chapter 7.
- ¹⁷ Kay Sandiford, Shattered Night (New York: Warner Books, 1984), 229.
- ¹⁸ Del Martin, Battered Wives (San Francisco: Glide Publications, 1976), 18.
- ¹⁹ Richard Gelles, The Violent Home: A Study of Physical Aggression Between Husbands and Wives (Beverly Hills: Sage Publications, 1974), 153.
- ²⁰ Marvin E. Wolfgang and Franco Ferracuti, The Subculture of Violence: Towards an Integrated Theory in Criminology (Beverly Hills: Sage Publications, 1982), 159.
- ²¹ A. Bandura, Aggression: A Social Learning Analysis (Englewood Cliffs, N.J.: Prentice Hall, 1973).
- ²² Murray A. Straus, et al., Behind Closed Doors: Violence in the American Family (New York: Doubleday, 1980), 121.
- ²³ Marvin E. Wolfgang, Patterns in Criminal Homicide (New York: John Wiley and Sons, 1958).
- ²⁴ Ibid.
- ²⁵ Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 20-22.
- ²⁶ Ward, et al., 1969.
- ²⁷ Richard Cohen, "Vigilante Justice Back in Women's Movement," Washington Post, 4 Dec. 1977: B-1-2.
- ²⁸ "A Killing Excuse," Time, 28 Nov. 1977: 108.
- ²⁹ "A Killing Excuse," Time, 28 Nov. 1977: 108.
- ³⁰ "Wives Who Batter Back," Newsweek, 30 Jan. 1978: 54.
- ³¹ Anna Quindlen, "Women Who Kill Their Spouses: The Causes, The Legal Defenses," New York Times, 10 March 1978: B4.
- ³² Tom DeVries, "Chano and Blanche: A Ballad of Love, Death and the Law in Tulare County," New West, 12 March 1979: 48-66.
- ³³ Bonnie and Charles Remsberg, "The Case of Patricia Gross," Family Circle, 24 April 1979: 58-60, 152-155.

34 "The Case of Marlene Roan Eagle," Newsweek, 30 Jan. 1978: 54.

35 "Battered Woman: Vindictive Sentence in Md.," The Guardian 26 July 1978.

36 "A Killing Excuse," Time, 28 Nov. 1977: 108.

37 "A Killing Excuse," Time, 28 Nov. 1977: 108.

38 Faith McNulty, The Burning Bed (New York: Bantam Books, 1989), 6-8, 14.

39 Derald D. Hunt, California Criminal Law Manual (Minneapolis: Burgess Publishing Co., 1984), 143.

40 George Williams, "The Theory of Excuses," Criminal Law Review (November 1982), 732-742.

41 Frances McNulty, The Burning Bed (New York: Bantam Books, 1980), 280-284.

42 Ann Jones, Women Who Kill (New York: Holt, Rinehart and Winston, 1980), 289.

43 E. Schneider, "Equal Rights To Trial For Women: Sex Bias in the Law of Self Defense," Harvard Civil Rights-Civil Liberties Law Review, 15 (1980): 623-647.

44 Ibid., 623-647.

45 Ibid., 623-647.

46 Mildred Pagelow, Women Battering: Victims and Their Experiences (London: Sage Publications, 1981).

47 E. Schneider, "Equal Rights To Trial For Women: Sex Bias in the Law of Self Defense," Harvard Civil Rights-Civil Liberties Law Review, 15 (1980): 623-647.

48 J. Rogers, et al., "Women In Oregon's Insanity Defense System," Journal of Psychiatry and Law (Winter 1983): 515-532.

49 See: S. Rittenmeyer, "Of Battered Wives, Self Defense and Double Standards of Justice," Journal of Criminal Justice 9 (1981): 389-395; and, E. Schneider, "Equal Rights to Trial for Women: Sex Bias in the Law of Self-Defense," Harvard Civil Rights-Civil Liberties Law Review, 15 (1980): 623-647.

50 Murray A. Straus, et al., Behind Closed Doors: Violence in the American Family (New York: Doubleday, 1980).

51 Lenore Walker, The Battered Woman (New York: Harper and Row, 1979), 15-16.

52 Ibid., 15-16.

53 Michael Weissberg, Dangerous Secrets: Maladaptive Responses to Stress (New York: W.W. Norton and Co., 1983), 174.

54 Angela Browne, When Battered Women Kill (New York: The Free Press, 1987).

55 Mildred Pagelow, Women Battering: Victims and Their Expectations (Beverly Hills: Sage Publications, 1976).

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57 Kay Sandiford, Shattered Night (New York: Warner Books, 1984).

58 Lenore Walker, The Battered Woman (New York: Harper and Row, 1979), 16-17.

59 Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 52-53.

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63 Lenore Walker, The Battered Woman (New York: Harper and Row, 1979), 16.

64 Angela Browne, When Battered Women Kill (New York: The Free Press, 1987), 4-9.

65 Del Martin, Battered Wives (San Francisco: Glide Publications, 1976), 62-67.

66 Michael Weissberg, Dangerous Secrets: Maladaptive Responses to Stress (New York: W.W. Norton and Co., 1983), 173.

67 Lenore Walker, The Battered Woman (New York: Harper and Row, 1979), 17-18.

68 Michael Weissberg, Dangerous Secrets: Maladaptive Responses to Stress (New York: W.W. Norton and Co., 1983), 174-175.

CHAPTER III

Conclusions and Recommendations

Domestic violence continues to escalate within our society, despite legal and other forms of intervention to curb its presence. Incidents where women have eliminated the source of the abuse, in one desperate act of violence, have been on the upswing. Perpetrators of domestic homicide are not limited to the poor, uneducated, emotionally disturbed women who feel trapped within a marriage. Rather, research findings conclude that many hardworking, educated, and stable, middle and upper class women are involved in spouse murder, too.

There are no guaranteed solutions to this problem, but it is recommended that our social institutions explore the foundation of the problem (battering) and proceed to treat the underlying "social disease," rather than the mere "symptom" of murder.

Wife abuse has become acceptable behavior within our society due to outdated concepts of the female role in a marital relationship and the perpetuation of sexist attitudes within our society. As long as women are treated as disenfranchised citizens, from both a societal and legal

perspective, they will continue to be psychologically, emotionally and physically abused.

First, it is imperative that society be re-educated, preferably through a mass media campaign (similar to MADD, Mothers Against Drunk Drivers), with an emphasis on the premise that battering is not tolerable behavior. This campaign would reinforce the concept that known perpetrators, as well as incidents of battering, should not be kept behind closed doors. Commercials, billboards, newspaper and magazine advertisements, directed against domestic violence are necessary. Respected and highly visible spokespersons willing to communicate by means of the media, as well as at community functions and legislation hearings is critical.

Additionally, responsible journalism must be encouraged in the media accounts of domestic violence cases, especially murder trials, so that this complex phenomenon is related to the public in a manner which increases public understanding of this distressing social problem. The press should report newsworthy information. The manner and bias in which most battered women have been portrayed in the media has negatively influenced public response to such cases. In addition, it has definitely underplayed the actual violence occurring in each incident. Irresponsible journalism continues to perpetuate the myth that a woman who retaliates against her abuser is "unfeminine" or "crazy," and that her

batterer should be labeled the victim, rather than herself.

Another positive attempt to change public attitudes toward the plight of the battered woman can be accomplished through specific programs designed to re-educate law enforcement, legal, medical and social services personnel. These programs would emphasize the seriousness of the problem, assist personnel in early identification of a couple in crisis and provide the proper protocol for handling these battering cases. It would also provide them with the most current information on available legal and treatment alternatives. This knowledge should be mandatory, standardized, and incorporated into the required training and educational curriculum for criminal justice professionals with provisions for continuous refresher courses.

Second, it is important to implement legislation which will protect women from assault, guard their legal rights and provide them with suitable alternatives for survival. Laws which provide psychiatric, medical and legal services, job counseling and other social services programs must be initiated and these services made available to battered women.

Funding of supportive services to abused women must be routinely addressed in state and local budgets and not be perceived merely as an additional community expense.

Third, it is necessary to treat the batterer and his

underlying alcohol or drug problem, by providing mandatory intervention treatment and supportive therapy to teach him alternative forms of behavior. He must be made to recognize that legal measures are available and that these will be implemented by the criminal justice system if he fails to correct his destructive behavior or refuses to seek mental health services.

Projects and Programs Worth Replication in the Community

In addition to the recommendations mentioned in the beginning of this chapter, it is extremely important to advocate the following programs and projects that will provide some of the necessary support services needed by battered women and their families: community support groups, twenty-four hour telephone "hotlines" and crisis intervention counseling, free legal advice, emergency financial assistance, emergency medical and psychiatric services, career counseling and job training, increased numbers of "safe houses" and shelters for battered women and their children, and responsive social service agencies dedicated to the plight of the battered female, her abuser and their family.

Future Needs

There is a need to continue the development of better educational programs and guidelines for professionals who routinely deal with battering and spouse murder incidents. An increase in the number of staff and facilities which provide intervention treatment and support services for battered women, and their families is necessary to contain this problem.

Realistic agency and community budgets, national and state funding, and private fund raising for battered women projects are needed. Legal funds set up by private citizens and private lawyers who volunteer their legal services for the defense of battered women unable to afford proper legal assistance, should be encouraged.

Research into "aversion therapy" i.e., administration of chemical controls or electroshock to the abuser, in addition to other less controversial forms of behavior modification should be explored and given consideration.

Finally, we need to look at the criminal justice system and rework the current procedures and legal defenses used in domestic homicide cases. There ought to be standardized evidence procedures, staff guidelines and pre-trial psychiatric interviews. There should be a clear understanding of the "history" of the battering relationship by all the principals involved in the case prior to going

into the courtroom, so that the "real victim" (i.e., the battered woman) is not misrepresented. The defense of "self defense" should be explored and utilized when appropriate, rather than simply labeling the abused woman as temporarily insane and representing her as a "second class" citizen without any legal rights due to her mental state.

Contributions to the Criminal Justice Field

This study has demonstrated how the perceptions of the criminal justice system, the media, practitioners and clinicians influence the treatment of the battered woman who murders her abusive mate. It has attempted to demonstrate how history, cultural mores and the seemingly unchanged "system" impacts on her personal and legal treatment, as well as the final disposition of her case.

Historical background and viewpoints expressed by experts in the field of battered women continue to illustrate how women are not taken seriously until they act out in a "violent" manner (i.e., murder like a man). Although there are psychological and other contributing factors to her final act of desperation, a woman who murders her husband is still perceived as a criminal and so treated in the majority of cases.

Society must bring the issue of battering "out of the shadows" and see it for what it is: physical, emotional and

psychological torture. No husband possesses the right to do this type of damage to his wife, regardless of historical or legal precedent and ongoing, antiquated cultural norms.

It is hoped that this study will encourage the justice system to take a firm look at the "myths" surrounding battered women and initiate the measures necessary to treat the abusive male and protect his female victim, before murder becomes her only option in eliminating recurrent physical and psychological abuse.

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